



# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: October 28, 2008

FROM: Jorge G. Gomez, AICP  
Planning Director

SUBJECT: File No. 1796. 4120 & 4120 Pine tree Drive and 340 W. 42<sup>nd</sup> Street (collectively referred to as 301 41<sup>st</sup> Street) - Naya Condominium

The applicants, City National Bank of Florida, as Trustee, CABI 301 Commercial LLLP and CABI 301 Residential LLLP are requesting a one-year extension of time – to August 27, 2009 - in order to obtain a full building permit. The Conditional Use Permit was approved on February 27, 2007 for the construction of a structure larger than 50,000 square feet consisting of 35 condominium dwelling units situated above a three-story garage with 138 parking spaces concealed at ground level by 7 townhouse units for a total of 42 residential units.

### **BACKGROUND**

After the adoption of the ordinance requiring Conditional Use approval for structures 50,000 square feet and over in the I-1 Industrial District, on January 17, 2007 the City Commission adopted a similar ordinance extending this type of review in all commercial districts.

### **ZONING / SITE DATA**

*Conditional use*, as defined in Section 114-1, means a use that would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

**Legal Description:** Lots 4, 5, 6, 7, 8 and 9, Block 3, Orchard Subdivision No. 4, according to the Plat thereof, as recorded in Plat Book 25, at Page 30 of the Public Records of Miami-Dade County, Florida.

**Zoning:** CD-3, Commercial High Intensity zoning district.

**Land Uses:** The property currently contains a 6-story building, drive-thru bank tellers, and several parking lots. Although located in a commercial district, the property is adjacent to a single-family district to the north; a municipal garage is to the west; to the east is a high rise residential building and to the south are a variety of commercial uses.

## **ANALYSIS**

The subject site consists of a 44-space commercial surface parking lot, drive-thru bank teller structure with 6 drive-thru stations, and a 6-story building housing offices and a bank on the ground floor. The applicant is proposing to develop a 7-story, 42-unit residential building, with a height measured to the roof deck of 72' 8" feet. The structure as proposed consists of 3-story townhouses at street level facing 42<sup>nd</sup> Street, Sheridan Avenue and Pine Tree Drive; the bank's two-lane drive-thru teller windows on Pine Tree Drive; 3 levels of parking within the structure; recreational amenities, single-story residential units on the fourth and fifth floors, and two-level penthouse units on the sixth and seventh levels. The garage is accessed from Sheridan Avenue as well as Pine Tree Drive.

The project has two fronts – Pine Tree Drive and Sheridan Avenue and thus two front setbacks. Although this project is within a CD-3, Commercial High Intensity zoning district, the City Code refers back to the RM-3, Residential Multifamily High Intensity district regulations to establish the setback requirements for a residential building. The project meets the RM-3, Multifamily High Intensity development regulations and no variances will be necessary.

Construction drawings have been submitted for the review and approval of the different disciplines before a building permit is issued. These reviews are complicated and will not be finalized in time for the applicant to have a full building permit within the 18 months permitted by the City Code. For this reason the applicant is requesting a one-year extension of time, or to August 27, 2009, to obtain the building permit.

One of the conditions of approval (see condition No. 14 on the attached Conditional Use Permit) is that a supplemental traffic study that reviews traffic impact after the 63<sup>rd</sup> Street became operational and further reviews the u-turn movement to access the bank's drive-thru tellers should be submitted to staff. Such study had been commissioned by the applicant, but the Transportation Manager had suggested that such supplemental study should be conducted after the start of the school year in order to have a better traffic count. The traffic counts were started on August 26, 2008, approximately two weeks after the start of the 2008-2009 school year.

Traf Tec collected new traffic counts at the following intersections:

Arthur Godfrey Road (41<sup>st</sup> Street) and Pine Tree Drive

Pine Tree Drive and 42<sup>nd</sup> Street

Arthur Godfrey Road (41<sup>st</sup> Street) near Pine Tree Drive (roadway segment traffic count)

Pine Tree Drive north of Arthur Godfrey Road (41<sup>st</sup> street) (roadway segment traffic count)

A comparison between the projections made for the year 2008 in the original TIS and the actual count for 2008 show that there are 380 less vehicles per hour (11% reduction in the AM peak hour and 987 less vehicles per hour (23% reduction in the PM peak hour) at the intersection of 41<sup>st</sup> Street and Pine Tree Drive. The same comparison for the Intersection of Pine Tree Drive and 42<sup>nd</sup> Street show that traffic volumes have significantly increased at this intersection - 494 more vehicles per hour (a 200% increase) in the AM peak hour and 199 more vehicles per hours (a 29% increase) in the PM peak hour.

The TIS also evaluated the northbound, left turn/u-turn movement at Pine Tree Drive and 42<sup>nd</sup> Street and recommends that the northbound left-turn lane be re-striped in order to increase the storage capacity from approximately 25 feet to 50 feet. This and any other concerns of the

Public Works Department Transportation Division shall be satisfied prior to the issuance of a building permit.

**STAFF RECOMMENDATION**

In view of the above analysis, staff recommends that the one-year extension of time - to August 27, 2009 be approved.

JGG/ML

c: Gary Held, First Assistant City Attorney

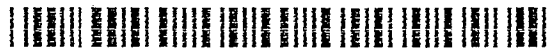
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Record / Return - Carter McDowell, Esq.

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**PLANNING BOARD**

**CITY OF MIAMI BEACH, FLORIDA**



CFN 2007R0596989  
DR Bk 25701 Pgs 3177 - 3180f (4pgs)  
RECORDED 06/14/2007 10:14:56  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**PROPERTY:** 4120 & 4120 Pine tree Drive and 340 W. 42<sup>nd</sup> Street  
(collectively referred to as 301 41<sup>st</sup> Street).

**FILE NO.** 1796

**IN RE:** The Application by City National Bank of Florida, as Trustee, CABI 301 Commercial LLLP and CABI 301 Residential LLLP, requesting Conditional Use approval to construct a structure larger than 50,000 square feet consisting of 35 condominium dwelling units situated above a three-story garage with 138 parking spaces concealed at ground level by 7 townhouse units for a total of 42 residential units

**LEGAL DESCRIPTION:** Lots 4, 5, 6, 7, 8 and 9, Block 3, Orchard Subdivision No. 4, according to the Plat thereof, as recorded in Plat Book 25, at Page 30 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** February 27, 2007

### CONDITIONAL USE PERMIT

The applicant, City National Bank of Florida, as Trustee, CABI 301 Commercial LLLP and CABI 301 Residential LLLP, are requesting Conditional Use approval pursuant 118-193 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for a Conditional Use Permit was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property, upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the CD-3, Commercial High Intensity Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

**IT IS THEREFORE ORDERED**, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendation, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the conditions below, which have been accepted by the applicants:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194(c).
2. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), as deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. The proposed tandem spaces shall be assigned to those units that may require more than one space and shall comply with City Code Section 130-251(c) of the City Code. This section of the Code requires that those tandem parking spaces utilized for self-parking in multi-family residential buildings shall have a restrictive covenant, approved as to form by the City Attorney's office and recorded in the public records of Miami-Dade County, Florida, as a covenant running with the land, limiting the use of each pair of tandem parking spaces to the same unit owner.
4. The designated guest parking spaces shall be clearly marked to be easily identified.
5. As proposed by the applicants, the design of the Sheridan Avenue entrance to the parking garage shall incorporate security gates, speed bumps and a triangle of visibility, which will help safeguard the general security, health and welfare of pedestrians on the sidewalk. The design and location of these security measures shall be submitted to staff for review and approval.
6. The sidewalk along Pine Tree Drive shall be extended into the landscape island between the two driveways in order to create a transition between the two garage entrances.
7. The developer, designee, future homeowners association, or contract operator shall be responsible for operating parking garage in an orderly, clean and quiet manner so that neighboring residents are not disturbed. The sounding of car alarms, automobile horns and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns (see attached examples), shall be posted on the site so they are plainly visible by users of the facility.
8. The leasing of parking spaces that may be deemed underutilized shall be strictly prohibited.

9. The depth of the eyebrows along all the facades of the structure shall be reduced in a manner to be approved by staff, in order to minimize the perception of structural massing.
10. The applicant shall coordinate with the Public Works, Parking and Parks directors the proposed street improvements, including but not limited to the rearranging of the on-street parking spaces, bike lanes, landscaping and any other City right-of-way work proffered at the public hearing where this Conditional Use Permit is approved. The plan shall be finalized and approved prior to the issuance of a building permit.
11. The landscape buffer shall be expanded and increased, with a special emphasis on the north side of 42<sup>nd</sup> Street.
12. Should the current bank operator change, the applicant shall come back to the Planning Board for evaluation of the nature of the new operation and determine if any new conditions shall be considered because of such new impacts.
13. All stacking of vehicles destined for the bank's drive-through windows shall be internal to the garage. No stacking of vehicles shall be permitted on public rights-of-way.
14. The applicant shall continue to address the concerns of the City's Transportation Division and Consultants relative to the traffic analysis, especially a revised traffic study that indicates the impact of traffic after the 63<sup>rd</sup> Street Bridge construction is finalized, and the u-turn movement to access the bank's drive-through tellers.
15. The applicant shall submit an MOT (Method of Transportation) to staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
16. As recommended in the traffic impact study, the following measures, which would improve traffic conditions within the study area shall be followed, subject to the review and approval of the City's Public Works Department and any other county or state agency that may have jurisdiction:
  - Re-stripe the northbound left-turn lane at the Pine Tree Drive/42<sup>nd</sup> Street intersection in order to increase the capacity from about 25 feet to 50 feet.
  - Install a "DO NOT BLOCK INTERSECTION" sign on the eastbound approach of the 41<sup>st</sup> Street/ Sheridan Avenue. This regulatory sign should ensure that this intersection remains clear of stopped vehicles and allow easier flow of traffic on Sheridan Avenue.
17. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and work proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board, provided a request in writing is submitted to the Planning and Zoning director in advance of the expiration of the original approval. In the event a proposed Code amendment renders a project with a Conditional Use approval non-conforming, as more specifically set forth in sections 118-168 and 118-169 of the City Code, then such a project shall not be eligible to receive an extension of time for any reason.

18. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
19. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a Building Permit.
20. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

Dated this 14th day of MARCH, 2007.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

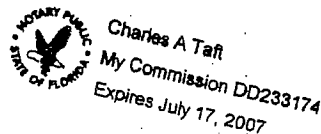
BY: 

Jorge G. Gomez, Planning Director  
For Chairman

STATE OF FLORIDA     )  
COUNTY OF MIAMI-DADE     )

The foregoing instrument was acknowledged before me this 14th day of MARCH, 2007, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Notary:

Print Name:

Notary Public, State of Florida

My Commission Expires:

Commission Number:

Approved As To Form:  
Legal Department

( Spec 3-9-07 )

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## Memorandum

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Date: October 17, 2008  
To: Xavier Falconi, P.E. City of Miami Beach Transportation Manager  
From: Myra Patino, P.E.  
Subject: Review of the NAYA Condominium Supplemental Traffic Study  
Distribution: File

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A review of the "Naya Condominium Traffic Impact Study", September 2008, submitted by Traf Tech Engineering, Inc., referred hereafter as Traf Tech, was performed and is presented below.

### General Comments

- ♦ The plan site included in the September 2008 Supplemental Traffic Study is not the latest one. Thus, it is not clear on which site plan the traffic analysis was based on.
- ♦ **Page 3, Table 1.** The traffic volume comparison is based on total entering traffic for the intersection as a whole, without analyzing the volume increase/decrease per movement, and this may be misleading. For instance, nine of the twelve movements at Arthur Godfrey Road at Pine Tree Drive intersection reported higher traffic volumes during the AM or PM peak when compared to the 2007 counts. This clearly indicates a change in area traffic patterns rather than a generalized decrease in traffic volumes.
- ♦ **Page 4, Table 3.** The PM peak hour actual counts is higher (+29%) than projected volumes, not lower as shown.
- ♦ **Page 4.** The second paragraph states that traffic conditions were analyzed again only along Pine Tree Drive because traffic counts indicated that volumes were higher along that segment. (This indicates that traffic patterns probably changed after the bridge re-opened. Therefore, it would have been advisable to include the rest of the intersections in the supplemental study.) Also, the new traffic analysis supposedly includes the driveway; however, TMC's at the driveway during the peak hours are not included in the report. (Table H-3 in the Appendix appears to indicate that there will be 1 vehicle exiting during the AM peak and 0 during the PM peak at the driveway.)
- ♦ **Figure 3.** The traffic at the driveway does not include traffic background. It was requested previously that counts be collected at the driveway. (This reinforces the comment in the previous bullet).
- ♦ **Figure 4.** Figure 4 presents the existing lane configuration. A figure depicting the proposed lane configuration is missing.
- ♦ **HCS vs. CORSIM.** The previous two reports were performed using HCS, while the third report was performed using CORSIM. These are two different traffic software programs; therefore, it is difficult to make an exact comparison of the results of the two reports with the third. In addition, there was no data entry sheets for CORSIM included in the Appendix; therefore, the simulation model could not be checked.
- ♦ In general, the analysis was performed using the data and methodologies of the previous studies without addressing all the review comments. Some of the issues not addressed include the following:
  - a. **Determination of the Peak Hour.** The initial study assumed that the peak hours would fall within 7-9 am and 4-6 pm. One of the comments from the previous reviews was that new counts, ADT's should be collected in order to identify the true peak



hour. The September 2008 report includes two-day ADT's west of Arthur Godfrey Rd. and north of Pine Tree Dr., but it is not clear if they were used in the identification of the peak hour.

- b. **Pedestrian/Bicycle Impacts.** This area is heavily used by pedestrians, yet the study does not include the impacts to pedestrians. Although pedestrian counts are included in the Appendix, it is unclear if they were included in the traffic analysis, and no reference is included in the text either. In addition, no mention is made as to the impacts to bicyclists in the area.
- c. **Existing vs. Proposed Conditions Analysis.** It is not clear for what scenario the analysis was performed.
- d. **NB Left Turn/U-Turn at Pine Tree Drive at West 42<sup>nd</sup> St.**
  - In the previous study, a queuing analysis was performed for existing conditions. The data for that analysis was collected outside the peak periods (between 11 AM and 2:00 PM and from 3:15 PM to 4:45 PM); therefore, the queuing analysis was not based on the study traffic conditions. Furthermore, the analysis requested was for a capacity/queuing analysis of future site and future + project traffic conditions, and this was not performed.
  - In the September 2008, the study indicates that all NB LT are coded as NB U-turns. However, it does not analyze the weaving issue made in the previous comments between the NB U-turns and through traffic as they try to access the site's driveway. Also, it appears that counts at the driveway were not collected and only future project estimations were used.
  - NB LT volumes increased from 32 to 49 in the AM peak, and during the PM peak, they increased from 33 to 151 vehicles. Traf Tech recommends increasing the bay length to 50 feet. The current segment length is approximately 200 feet long, while the bay length including the taper is approximately 70 feet. Currently, the intersection is processing an average of 6 NBL veh/cycle (under a cycle length of 140 sec), which means that the bay length required is approximately 150 feet long. It may be that the NB LT traffic is spilling into the marked pavement area. Thus, adding 50 feet to the left-turn bay may not be sufficient.
  - Another issue that was discussed was the proximity from the driveway entrance to the intersection. The distance is too short to safely accommodate a driveway with 2 different types of uses (residents and bank customers). Drivers will not have sufficient time to choose and make the appropriate decision. Moreover, if the "drive-thru only" lane is backed up, drivers will inevitably use the resident's lane to access the bank drive-thru lane.

**It is recommended for the issues stated above to be resolved before a final recommendation is made by the City.**